IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 684 of 2006

Anil Kumar Gupta, Son of Late Baijnath Prasad Gupta, R/o Dwarikapuri, Chuna Bhatha Road, Chutia, P.S.-Chutia, Dist.-Ranchi. **... .... Appellant**

Versus

The State of Jharkhand through C.B.I.

.... Respondent

For the Appellant : Mr. B.M. Tripathi, Sr. Advocate
Mr. Nutan Kumari Sharma, Adv.
For the Resp.-C.B.I. : Mr. Deepak Kumar Bharati, Spl.P.P.

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 08.09.2026 **Pronounced on 06/11/2026**

1. Heard the arguments of learned Sr. counsel for the appellant-Sri B.M. Tripathi and learned counsel Mr. Deepak Kumar Bharati appearing on behalf of C.B.I.

2. The instant criminal appeal has been preferred by the above named sole appellant challenging his conviction and sentence for the offence under Sections 7 & 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 in R.C. Case No. 6A of 2000 (R) passed by the learned Special Judge, CBI, Ranchi vide its Judgment and order dated 11th May, 2006 whereby and whereunder, the appellant has been directed to undergo R.I. for three years with a fine of Rs. 10,000/- for the offence under Section 13(2) and 13(1)(d) of the P.C. Act and further sentenced to undergo R.I. for two years for the offence under Section 7 of the P.C. Act with a fine of Rs. 6000/-, with default stipulation. Both the sentences of imprisonment were directed to run concurrently.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that the complainant Rozamat Ansari (P.W.-5) was posted as Post Master in Jaher Bargari Branch of Sub Post Office Since 31.2.1979. The present appellant Anil Kumar Gupta was sub-divisional Inspector of Post used to visit time to time for inspection of the post office. It is alleged by the complainant that the appellant had demanded Rs. 1000/- from him on 27.05.2000 for giving favourable report in the ongoing departmental enquiry being conducted by the appellant against him in connection with an allegation of having fraudulently withdrawn Rs. 4,000/- from the savings account of one Marium Toppo. It is further stated that the appellant had recorded the statement of complainant on 27.05.2000 in the said inquiry and told him that in case he did not meet his demand, he would be put in serious trouble like loss of job and also told to come with the above amount to his residence on 31.05.2000. The complainant was not desiring to give bribe. Hence, he lodged the complaint on 30.05.2000 at the office of S.P., C.B.I., Ranchi who directed to Sri, P.K. Panigrahi (Inspector, C.B.I., P.W.-8) for verification of the allegation who submitted his report confirming the allegation leveled against

the appellant to be true and recommended for registration of a regular case on the same day.

4. Accordingly, S.P., C.B.I., Ranchi directed Sri Binay Kumar, Inspector of Police, CBI/SPE Ranchi to register a case against Sri Anil Kumar Gupta under Section 7 of the P.C. Act.

5. After registration of the case being R.C. Case No. 6A/2000 (R) dated 30.05.2000 at 5 PM by the CBI, a pre-trap proceeding was started on 30.05.2000 under the leadership of Sri A Prasad, Dy. S.P., C.B.I. Ranchi with other C.B.I. Officials. As per direction, all the team members of CBI along with both independent witnesses and complainant assembled in the office of Sri A Prasad, Dy. S.P. at about 7 AM on 31.05.2000 and were explained the process of laying trap and also explained the use of phenolphthalein powder and its chemical reaction with the sodium carbonate solution in water which was followed by a practical demonstration and Sri Rozamat Ansari produced 20 number of G.C. Notes of Rs. 50/- denomination amounting to Rs. 1000/- and number and denominations of the G.C. Notes were noted and properly treated with phenolphthalein powder and asked the complainant to keep in his left side upper pocket and instructed to given the said tainted G.C. notes to the accused on being demanded as bribe otherwise not. The complainant was instructed to negotiate the bribe matter in an audible manner so that the shadow witness could hear the same and give a signal so that team members could reach at

the place of occurrence after receiving signal. Accordingly, a memorandum of pre-trap proceeding was prepared. The team proceeded for the place of occurrence and reached there to apprehend the appellant red-handed. Thereafter, the complainant along with independent witness Nandlal Prasad (P.W.-3) entered inside the campus of accused Anil Kumar Gupta at 8:30 AM and it is alleged that on demand, the complainant handed over the bribe amount of Rs. 1000/- and the same bribe amount of Rs. 1000/- is alleged to be recovered from the possession of the present appellant. Memorandum of post-trap proceeding was prepared, accordingly.

6. After conducting thorough investigation, the Investigating Officer filed charge-sheet against the present appellant for the offence under Section 7, 13(1)(d) and 13(2) of the P.C. Act. The appellant pleaded not guilty and claimed to be tried.

7. In order to substantiate the charges leveled against the appellant, the prosecution has examined altogether eight witnesses:-

P.W.-1	Kamakhya Nand Tiwary
P.W.-2	Akhil Das
P.W.-3	Nand Lal Prasad
P.W.-4	Sandeep Kumar Jaiswal
P.W.-5	Rozamat Ansari
P.W.-6	Anil Kumar Srivastava
P.W.-7	Binay Kumar
P.W.-8	Prasan Kumar Panigrahi

8. Apart from oral testimony of the witnesses, the prosecution has adduced following documentary evidence:-

Ext.-1 Series Signature of the complainant and the witnesses over pre-trap, post-trap memorandum, all the four bottles and envelopes.

Ext.-2 Sanction Order

Ext.-3 Complaint Petition

Ext.-4 Report of C.F.S.L.

Ext.-5 Forwarding Letter

Ext.-6 Endorsement of Sri N. Jha over complaint petition.

Ext.-7 Verification Report

Ext.-8 F.I.R.

Ext.-9 Pre-Trap Memorandum

Ext.-10 Search List

Ext.-11 Observation remarks dated 31.05.2000

Ext.-12 Memorandum Recovery and Seizure

9. The prosecution has also examined following material exhibits:-

M. Ext.-1 Bottle Containing solution of demonstration.

M. Ext.-II Envelope containing tainted piece of paper

M. Ext.-III Envelope Containing residual phenolphthalein powder

M. Ext.-IV Bottle Containing left hand wash

M. Ext.-V Bottle Containing right hand wash

M. Ext.-VI Envelope containing G.C. Notes

M. Ext.-VII -VII/19 G.C. Notes

M. Ext.-VIII Bottle Containing Solution of T.Shirt Wash

M. Ext.-IX Envelope Containing T-Shirt

M. Ext.-X T-Shirt of the accused

10. On the other hand, the case of the defence is total denial from occurrence. Further defence of accused is that he was conducting an enquiry against the complainant for fraudulent withdrawal of amount of Rs. 4000/- from the account of one Mariyum Toppo and with a view to put pressure upon the accused, this false case has been instituted against him and he has falsely been implicated in this case. Further defence of the accused is that he had already submitted the enquiry report on 30.05.2000 against the complainant, therefore, there was no occasion to demand any illegal gratification for showing favour to the complainant. It is also pleaded that nothing was recovered from the conscious possession of the accused and his hand was never washed in the solution of sodium carbonate as claimed by the prosecution. However, no oral evidence has been adduced on behalf of the defence, but defence has adduced following documentary evidence:-

Ext.-A to Ext.-7 Enquiry Report Number E-J Bargari/Brame dated 20.09.2000, inspection report dated 16.07.1980, 07.01.1995, 22.03.199522.03.1997, 16.04.1998 and 02.02.1996

Ext.-B Letter No. B/2-10 AKG/CBI/2000-01 dated 28.07.2000

Ext-B/1 Letter No. F-Misc./J Bargari/SB/7/2003 dated 19.05.2004

11. The learned trial Court after evaluating the oral as well as documentary evidence along with material exhibits relied upon by the prosecution arrived at definite findings that the present appellant being the public servant was under the charge of conducting enquiry for allegation of illegal withdrawal from the account of Marium Toppo and was bound to conduct a fair enquiry but with intention to show favour to the complainant demanded illegal gratification of Rs. 1000/-. The prosecution witnesses have fully supported and proved the factum of demand, acceptance and recovery of illegal gratification at the hands of the accused and he was also caught red-handed in the trap. The post-trap memorandum also fortifies the charges leveled against the accused. Accordingly, the learned trial Court held the appellant guilty for the offence as stated above which has been assailed in this appeal.

Submissions on behalf of appellant: -

12. Assailing the impugned judgment of conviction and sentence of the appellant, learned Sr. counsel for the appellant has pointed out following main grounds:-

- Admittedly, the appellant was conducting the departmental enquiry against the complainant just prior to institution of this case. The allegation was very serious in nature against the complainant that he has fraudulently withdrawn of Rs. 4,000/- from the savings

account of one Marium Toppo but it is stated by the complainant that on 27.05.2000, he met with the appellant in connection with departmental enquiry against him and his statement was recorded. In the same breath, he stated that there was demand of Rs. 1000/- by the appellant to give a favourable report otherwise consequence will be troublesome to him and also invited him at his residence in the morning of 31.05.2000. It is quite surprising that instead of immediately lodging the case, the complainant waited for three days and in the evening of 30.05.2000, filed a complaint before the S.P., C.B.I., Ranchi, although at that time enquiry report was already submitted against him and he might have come to know the result of enquiry by any source and maliciously and having ill-will with the appellant lodged this false case on an concocted story of demand of bribe in order to teach a lesson to the appellant.

- P.W.-1 Kamakhya Nand Tiwary, a postal employee has categorically admitted in his evidence (para-5 & 7) that the appellant had informed that the enquiry report with regard to the complainant was complete and there has been an entry in the dispatch register of the office dated 30.05.2000 and the enquiry report was also attached and since it was inter-office letter, no dispatch number was mentioned.

- P.W.-2 Akhil Das, Personal Assistant of CMPDI office, has been turned hosilte. P.W.-3 Nandlal Prasad, UDC in CMPDI has admitted to be star witness of C.B.I. in many trap cases including the present case.
- The preliminary enquiry conducted by P.W.-8 on 30.05.2000 itself shows that he simply interrogated with the complainant and concluded, no other independent inquiry about the truthfulness of the allegation and submitted his verification report confirming the allegation. This witness did not bother to examine Marium Toppo, whose money was fraudulently withdrawn by the complainant himself.
- The complaint was presented by P.W.-5 (Complainant) at about 3:00 PM in the office of Sri N. Jha, S.P., C.B.I. and within two hours of enquiry, report was submitted and F.I.R. was lodged.
- The story of trap is also strange. It is admitted by complainant that the shadow witness were standing at a distance of 50-60 feet from him. He alone went to the residence of the appellant. This fact is also corroborated by P.W.-2- Akhil Das. Therefore, there was no occasion for the shadow witnesses to overhear the conversation about transaction in between the complainant and the appellant regarding demand, acceptance and recovery of bribe money as alleged.

- It is also admitted by the complainant that he has not been found guilty of mis-appropriation of Rs. 4000/- in case of Marium Toppo rather he was directed to deposit the aforesaid amount and the recovery of aforesaid money was ordered by the postal department and the same was recovered from him. It is submitted that recovery of amount illegally withdrawn also comes under category of "punishment" under service rule of Gram Dak Sewa Rule-9 (Ext.-A/1). In the year 1997 also, the complainant was found guilty for mishandling of money and the then Superintendent of Post Office had recommended removal from service of the complainant (Ext.A).
- The prosecution has miserably failed to even disclose the name of shadow witnesses and evidence of other witnesses who were member of trap team also goes to show that only Rozamat Ansari went inside the gate and other witnesses were around 60 feet away from the gate. The complainant rang the bell and some conversation took place between the complainant and the accused but none of the witnesses as per their location were able to hear anything. It is also strange that at the time of taking the bribe amount, some Hulla were raised but the prosecution is mum as to who raised Hulla. The complainant should not make any Hulla, if everything

was going as per the plan, he has to only give signal as demonstrated during pre-trap formalities. P.W.-2 and P.W.-3 have also made contradictory statement in this regard. Admittedly the residence of appellant is situated in the dense populated area having 300-400 houses in near vicinity to each other but no neighbors were called upon to witness the trap proceedings. The location of trap is also misconceived by the prosecution witnesses.

- Admittedly, the appellant was apprehended on 31.05.2000 and was granted bail by the Hon'ble High Court on 14.07.2000. Therefore, there was no occasion for the appellant to manipulate enquiry report and submit the enquiry report prior to lodging of the case in the office, in between 31.05.2000 to 14.07.2000.
- Admittedly, 11 trap team members assembled at CBI Office on 31.05.2000 at about 7 AM and finally trape was conducted at 8:35 am at the residence of appellant. In such span of 95 minutes, all the witnesses were demonstrated about pre-trap formalities, memorandum was prepared, G.C. Notes were dipped with phenolphthalein power, sealed and given to the complainant, with direction to give the same to the accused only on demand of bribe and not otherwise, thereafter, proceeded to location with the 11 members read over and gone through the pre-trap memorandum

and thereafter put their signature. Similarly, post-trap formalities were conducted. All these proceedings were done within above short span of time speaks foul play and preparation of table work only. It is out and out a false case, deliberately instituted by the complainant as a grudge reckoning his vengeance due to submission of enquiry report against the complainant on 30.05.2000. The enquiry report (Ext.-A) dated 30.05.2000 was also relied upon by the appellant while he was in custody and moved his bail application before the C.B.I. Court on 07.06.2000 and also found mention in the bail rejection order dated 09.06.2000 in Cr. Misc. Case No. 4965 of 2000(R) for grant of bail. The said enquiry report was also filed as annexure-3. Therefore, the appellant was granted bail. Above report is not disputed by the prosecution. On the basis of which, the recovery was made from the complainant of his illegally withdrawn money.

- From the conversation in between P.W.-5 and the appellant, at the alleged time of trap itself, does not constitute any demand of illegal gratification in connection with ongoing departmental enquiry pending against the complainant, which was concluded and report was already submitted.

- The learned trial Court has miserably failed to consider the vital aspects of the case and the circumstances under which the prosecution case was initiated against the appellant and the background of the case which gave rise to false implication of the appellant as well as improbability proving the essential ingredients for constituting the offence under Section 7, 13(1)(d) read with 13(2) of the P.C. Act. In view of the fact that no favour was shown to the complainant in the department proceeding going on against him and conducted by the present appellant, therefore, there was no question to demand and accept any illegal gratification using his official position.

Submissions on behalf of the State-CBI

13. On the other hand, learned Sp.P.P. (C.B.I.) controverting the aforesaid contentions raised on behalf of the appellant has submitted that the learned trial Court has very wisely and aptly considered the vital aspects of the case, scrutinize and appreciated the evidence of witnesses, trap, proceedings and material exhibits and arrived at right conclusion that the prosecution has proved the charges leveled against the accused beyond all reasonable doubt. It is also settled law that if the demand and acceptance of gratification has been proved by the prosecution even through holding trap, the presumption under Section20 of the P.C. Act can be invoked to

the effect that gratification was demanded and accepted as a motive or reward as contemplated under Section 7 of the P.C.Act. The defence has simply relied upon enquiry report submitted on 30.05.2000 itself but could not properly prove the same and by submission of enquiry report itself, he cannot be exonerated from his criminal liability if otherwise demand of illegal gratification and its acceptance is proved by the prosecution. The defence has miserably failed to rebut the aforesaid presumption invoked against the appellant. During trap proceeding, the demand, acceptance and recovery has been proved which was in connection with departmental proceeding against the complainant. Therefore, there is no illegality or infirmity in the impugned judgment of conviction and sentence of the appellant and no merits in this appeal which is fit to be dismissed.

Analysis, reasons and decision:

14. I have gone through the record of case along with impugned judgment in the light of contentions raised on behalf of respective parties.

15. The only point for determination in this appeal is "as to whether the impugned judgment of conviction and sentence of the appellant suffers from any error of law, which requires any interference in this appeal?"

16. Before imparting my verdict on the above point, it is pertinent to take brief resume of the evidence available on record for proper adjudication.

The star witness of this case is **P.W.-5 Rozamat Ansari (**complainant). According to his evidence, he was posted at Jaher Bargari Post Office as Branch Post Master and one Marium Toppo had complained about fraudulent transaction of Rs. 4000/- which led to departmental proceeding against the complainant which was being conducted by the appellant who asked for Rs. 1000/- for giving favouarable report and asked the complainant to come with Rs. 1000/- at 7 AM on 31.05.2000. The complaint was filed on 30.05.2000 before S.P., C.B.I., Ranchi. After verification of allegations, F.I.R. was instituted on 31.05.2000, pre-trap memorandum was planned to apprehend the appellant red-handed and all the pre-trap formalities were explained to the complainant. Thereafter, the trap team proceeded for place of occurrence and reached there about 8:30 AM. The complainant and Sri Nand Lal Prasad (P.W.-3) entered into the residential premises of appellant and rang the doorbell then the appellant asked the complainant "kya Ansari ek hazar rupya laye ho", he replied " haa", the complainant brought out the money from upper left side pocket of the shirt and gave to the appellant who counted the same and kept in his upper left side pocket of T-Shirt. Then, the complainant gave a signal, all the trap team

members apprehended the appellant red-handed and all the post-trap proceeding was completed including the wash of hand which colour of solution turned pink and was sealed and signed by the trap team members.

P.W.-3 Nand Lal Prasad has claimed to have gone with the complainant inside the house of the appellant when post-trap proceeding was going on to apprehend the appellant red-handed. **This witness in his cross-examination admits that he was standing near the gate just in front of the Verandah of the house of the accused and P.W.-2 Akhil Das was standing behind him**

P.W.-2 Akhil Das has admitted that he has not seen the transaction of bribe amount and on this point, this witness has been declared hostile by the prosecution. He has further stated that he was standing on the main road during trap proceeding and on Halla, he had rushed in the house of the accused.

P.W.-7 Binay Kumar is the Investigating Officer of this case and after receipt of verification report, Sri N. Jha, S.P., C.B.I. directed this witness to register a case and take up investigation. This witness was also a member of trap team constituted for apprehending the accused red-handed. This witness has also admitted that complainant and P.W.-3 had entered into the premises of accused and other members took their suitable position. This witness has also supported the

fact that the appellant had rang the doorbell then the appellant asked the complainant "kya Ansari ek hazar rupya laye ho", the complainant replied in affirmative " haa", the complainant brought out the money from upper left side pocket of the shirt and gave, the appellant counted the same and kept in his upper left side pocket of T-Shirt. Then, the complainant gave a signal, all the trap team members apprehended the appellant red-handed and all the post-trap proceeding was completed including the wash of hand which colour of solution turned pink was sealed and signed by the trap team members. A detail memorandum of recovery and seizure was prepared and sent the material exhibit to C.F.S.L., Kolkata and obtained expert opinion and after completion of the investigation, submitted charge-sheet. **This witness has also admitted that he had recorded the statement of Akhil Das (P.W.-2), who had stated before this witness that appellant enquired from the complainant by saying "Kya Ansari Ek Hazar Rupya Laye Ho", then the complainant replied in affirmative "Haa".**

It is surprising that P.W.-2 in his deposition has admitted that he has not seen any transaction between the appellant and complainant due to his position being outside the premises but he has given his statement before the I.O. that he has seen the conversation between them.

P.W.-8 Prasan Kumar Panigrahi who is the verifying officer and member of the trap team and was directed by S.P., C.B.I., on 30.05.2000, to verify the genuineness of the complaint lodged by the complainant. This witness states that he had questioned the complainant and confirmed his allegation but he had not enquired from the Marium Toppo whose money was fraudulently withdrawn by the complainant.

P.W.-6 Anil Kumar Srivastava is the Asst. Director, C.F.S.L. who had examined the solution of four bottles sealed during pre-trpa and post trap and found phenolphthalein and sodium carbonate in the solution.

P.W.-1 Kamakhya Nand Tiwary is the Sub Divisional Inspector, Post Office. He has stated that in the year 2000, he was complaint Inspector in the office of Senior Superintendent. He has further stated that an enquiry for withdrawal of Rs. 4,000/- from the S.B. Account of Mariyam Toppo was pending. The enquiry was entrusted to accused Anil Kumar Gupta and after his trap that enquiry was entrusted to Sri Sita Ram, Assistant Superintendent, Sri Bimal Kishore, Sub. Div. Superintendent and to me by Senior Superintendent. He has stated during his cross examination that Anil Kumar Gupta had not submitted his enquiry report before trap. **He has further stated that it was mentioned in dispatch register that his enquiry report is ready**.

17. Before adverting to evaluate the aforesaid evidence available on record, it appears pertinent to extract the relevant provisions of the Prevention of Corruption Act, 1988.

(Prior to Amendment in the year 2018)

"7. ***Public servant taking gratification other than legal remuneration in respect of an official act****.— Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.*

Explanations —(a) "Expecting to be a public servant". If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) "Gratification". The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) "Legal remuneration". The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) "A motive or reward for doing". A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the

Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section."

"13. Criminal misconduct by a public servant.-

(1) A public servant is said to commit the offence of criminal misconduct,-

(a)…….

(b)…….

(c)…….

(d) if he,-

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;

(e)…….

Explanation:- ……

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine."

18. It is also pertinent to mention relevant judgments of Hon'ble Supreme Court of India. The Apex Court in the matter of **K. Shanthamma Vs. State of Telangana**, [(2022) 4 SCC 574] and **Neeraj Dutta Vs. State (Govt. of NCT of Delhi) [**(2023) 4 SCC 731] has held that for recording conviction under Sections 7, 13(1)(d)(i) and (ii), the prosecution has to first prove the demand and acceptance of illegal gratification.

19. The relevant paragraph number 11 of **K. Shanthamma (Supra)** is reproduced as hereunder:-

11. In P. Satyanarayana Murthy v. State of A.P. [P. Satyanarayana Murthy v. State of A.P., (2015) 10 SCC 152 : (2016) 1 SCC (Cri) 11] , this Court has summarised the well-settled law on the subject in para 23 which reads thus : (SCC p. 159)

> *"23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder."*

20. Similarly, the relevant paragraph number 88 of **Neeraj Dutta (supra)** is reproduced as hereunder:-

> *"**88.** What emerges from the aforesaid discussion is summarised as under:*
>
> ***88.1.** (a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.*
>
> ***88.2.** (b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.*

88.3. *(c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.*

88.4. *(d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:*

(i) if there is an offer to pay by the bribe-giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe-giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Sections 13(1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Sections 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe-giver and in turn there is a payment made which is received by the public servant, would be an

offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act.

88.5. *(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.*

88.6. *(f) In the event the complainant turns "hostile", or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.*

88.7. *(g) Insofar as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Sections 13(1)(d)(i) and (ii) of the Act.*

88.8. *(h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in sub-para 88.5(e), above, as the former is a mandatory presumption while the latter is discretionary in nature."*

21. In the instant case, the evidence of P.W.-1, P.W.-2 and P.W.-3 does not disclose as to whether any talk of demand was made or not. It is also not clear from the evidence of two shadow witnesses who were especially sent for overhearing the conversation between the complainant and the appellant as the P.W.-2 has stated in his evidence that he had not seen any transaction between the appellant and the complainant whereas P.W.-3 states that he was standing just behind the gate in front of Verahnda but not the room where the conversation and transaction alleged to have taken place between the appellant and the complainant. There also appear several contradictions in the evidence of P.W.-2 and P.W.-3 where it has come on record that somewhere P.W.-3 Nand Lal Prasad admits that Akhil Das was standing just behind him whereas Akhil Das (P.W.-2) himself admits that he was standing at the main road. Another glaring aspect is that whole pre-trap and post-trap proceedings have been executed in a haste completing all the pre-trap formalities and post-trap proceedings within a very short span of time which also casts a doubt whether the post-trap plan was executed in a manner as was planned in the pre-trap demonstration. It is also apparent from the perusal of the report of departmental proceedings (Ext.-A) that on the date of institution of complaint, the report of departmental proceeding was ready and was submitted in the office of Sr. Superintendent of Post

Office, Ranchi and its entry was made in the dispatch/correspondence register. It is also surprising that if the appellant has actually demanded any illegal gratification and told the complainant to reach at his residence on 31.05.2000 then, why the report of the departmental proceeding of the complainant was ready for dispatch on 30.05.2000 itself. Further, it is crystal clear from the evidence of complainant as well as purported shadow witness (P.W.-3) Nand Lal Prasad that both have consistently stated that the accused wishing the complainant at his door straightway asked "whether you have brought Rs. 1000/-"that is also corroborated by the P.W.-3. The above version of both the witnesses does not indicate that there was any demand of bribe at the hands of the appellant or he ever accepted any money as a bribe. Therefore, demand of bribe by the appellant from the complainant appears to be absolutely unreliable and unworthy of credit. I also find substance in the point of argument raised on behalf of the appellant that complainant approached the appellant on 27.05.2000 and if as alleged, any illegal gratification for showing favour was made by the appellant, as to why the complainant waited for three days instead of immediately lodging the complaint regarding the illegal gratification and in the evening of 30.05.2000, the complainant filed a complaint before the S.P., C.B.I., Ranchi although at that time enquiry report was already submitted

against him. It might be a situation that the complainant might have come to know the result of enquiry by any source and maliciously and having ill-will with the appellant lodged this false case on a concocted story of demand of bribe in order to teach a lesson to the appellant. Most of the prosecution witnesses are the members of the pre-trap memorandum who had to execute the same in the post-trap proceedings and all have just managed to complete the table work of post-trap proceeding lacking in substance of demand, acceptance and recovery.

22. The Hon'ble Supreme Court of India in the case of **P. Satyanarayana Murthy Vs. District Inspector of Police, State of A.P. and Anr.** reported in (2015) 10 SCC 152 has held in para 22 and 23 **that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under Section 7 as well as Section 13(1)(d)(i) and (ii) of the Act.** Para 22 and 23 are reproduced hereunder for ready reference:-

> *"22. In a recent enunciation by this Court to discern the imperative prerequisites of Sections 7 and 13 of the Act, it has been underlined in B. Jayaraj [B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543] in unequivocal terms, that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under Section 7 as well as Sections 13(1)(d)(i) and (ii) of the Act. It has been propounded that in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a*

public servant to obtain any valuable thing or pecuniary advantage cannot be held to be proved. The proof of demand, thus, has been held to be an indispensable essentiality and of permeating mandate for an offence under Sections 7 and 13 of the Act. Qua Section 20 of the Act, which permits a presumption as envisaged therein, it has been held that while it is extendable only to an offence under Section 7 and not to those under Sections 13(1)(d)(i) and (ii) of the Act, it is contingent as well on the proof of acceptance of illegal gratification for doing or forbearing to do any official act. Such proof of acceptance of illegal gratification, it was emphasised, could follow only if there was proof of demand. Axiomatically, it was held that in absence of proof of demand, such legal presumption under Section 20 of the Act would also not arise.

23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to provethe demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder." (Emphasis Supplied)"

23. Therefore, there is complete absence of any demand of bribe made by the accused, its acceptance and recovery as alleged by the complainant. The mere insistence upon recovery of G.C. Notes and post-trap formalities would be of no avail to prosecution. Therefore, no presumption under Section 20 of

the Act, can be raised against the appellant. The complainant himself had an evil motive to implicate the appellant.

24. In the above factual background, the ingredients of either of the offences under Section 7 & 13 (1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 are absolutely not attracted against the appellant. The learned trial Court has believed the testimony of the witnesses only on conjecturing and the observations of the learned trial Court are absolutely beyond the record. The totality of circumstances as proved by the prosecution clearly proves the innocence of the appellant.

25. In the light of foregoing discussions and reasons, I find substance in the points of argument raised on behalf of the appellant and merits in this appeal. Accordingly, impugned judgment of conviction and order of sentence of the appellant is hereby **set aside** and he is acquitted from the charges leveled against him.

26. The appellant is on bail, hence, he is discharged from the liabilities of bail bond. Sureties are also discharged.

27. In result, **this appeal is allowed.**

28. Pending I.A(s), if any, is also disposed of, accordingly.

29. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 06/11/2026
Basant / **NAFR**
Uploaded On: 06/11/2026